

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
Thursday, February 21, 2008**

Members Present:

Tom McGuirk, Chairman
Jack Lessard
Vic Lessard
Bill O'Brien
Bryan Provencal

Others Present:

Kevin Schultz, Building Inspector
Joan Rice, Secretary

Chairman McGuirk called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was said.

Chairman McGuirk introduced the members of the Board.

PETITION SESSION

The petitioner for Petition 09-08 requested to be heard first due to a family emergency.

Moved by Mr. Vic Lessard, seconded by Mr. Provencal, to hear Petition 09-08 first at this meeting.

VOTE: 5-0-0. Motion passed.

09-08 The petition of Ronald & Pamela Lavoie for property located at 172 Kings Highway seeking relief from Articles 1.3 as to 4.5.1 to re-do and extend existing second floor deck across a portion of the front of the existing house and extend existing roof line to the left end of the building covering a portion of the front deck. This property is located at Map 168, Lot 52 in a RB zone.

Ronald Lavoie and Michael Davis of Davis Construction came forward. Mr. Davis presented diagrams showing requested changes. He said they hoped to redo an interior stairway and enhance the appearance of the front of the house. They would like to extend the existing 2nd floor deck across a portion of the front of the existing house and extend the existing roof line to the left end of the building covering a portion of the front deck. Mr. Davis went through the five criteria and stated he felt they had been met.

Questions from the Board

Mr. O'Brien asked if the extension of the front deck was 3 feet. Mr. Davis replied that it was. Mr. O'Brien asked if this was 14.5 feet back from the front of the property. Mr. Davis replied yes.

Comments from the Audience

Mr. Chris Boris came forward. Mr. Boris said he owns the adjacent property. He said he wanted a condition on any approval that the South side decks be at least 10 feet from any boundary (based on an existing deed).

Mr. O'Brien said the Board cannot make that stipulation or address a private deed restriction. Mr. Davis said there is a deed restriction (a 10-foot side deed restriction). Mr. Schultz said this is a private deed restriction and asked the petitioner to bring documentation showing 10 feet when he applies for a building permit.

Back to the Board

Moved by Mr. Vic Lessard, seconded by Mr. Jack Lessard, to grant Petition 09-08.

Chairman McGuirk asked the Board if the five criteria had been met. All members agreed they had.

VOTE: 5-0-0. Motion passed.

07-08 The petition of Laurence & Sally Lambert for property located at 19 Concord Avenue seeking relief from Articles 1.3 and 4.5.1 to raze the front building to its foundation and erect and construct a new building on the existing foundation having a height of just over twenty-six feet, to provide a second floor living space and a deck, all within the existing footprint. An existing side encroachment will be eliminated and a first floor deck and storage area are proposed at the rear of the building (but do not require variances). This property is located at Map 296, Lot 97 in a RB zone.

Laurence and Sally Lambert and Attorney Peter Saari of Casassa & Ryan came forward. Attorney Saari said that the proposal is to construct a new building on the existing foundation. Attorney Saari went through the five criteria and stated he felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no comments from the audience.

Back to the Board

Mr. O'Brien asked about parking. Attorney Saari said they would not require more parking than they have. Mr. O'Brien stated that section 6.4.2 states that a parking space must be 9' x 18'. He also identified other parking variances that are required. Attorney Saari said that they could come back to the Board next month regarding the parking.

Mr. Schultz said that the Board could vote on the petition as stated.

Moved by Mr. Provencal, seconded by Mr. Vic Lessard, to grant petition 07-08 contingent upon getting the parking spaces approved.

Chairman McGuirk asked if the five criteria had been met. Chairman McGuirk, Mr. Vic Lessard, Mr. Jack Lessard and Mr. Provencal said the criteria had been met with the exception of the parking issue. Mr. O'Brien said he would abstain since he believed the Board should consider the entire request (setbacks and parking) at the same time.

VOTE: 4-0-1 (O'Brien). Motion passed.

08-08 The petition of Christopher Parker & Joann Brooks for property located at 495 Exeter Road seeking relief from Article 3.1 to allow applicant's elderly mother to live in a converted shop in garage, where a second dwelling unit on a lot in this zone is not allowed, upon the conditions there be no cooking facilities in the unit and the applicants satisfy the building department that the lot has adequate sewage disposal capabilities and that the unit complies with all codes and characteristics that make the space and that the dwelling unit be removed once the mother no longer resides there. This property is located at Map 36, Lot 1 in a RAA zone.

Christopher Parker, Joann Brooks and Attorney Peter Saari came forward. Attorney Saari explained that Mr. Parker's mother currently resides with the applicants. She has a number of medical issues. The problem here is that this is a single family zone. There is a bedroom, living room, and a kitchen in this garage space and this was done without a building permit. Mr. Saari said there is a provision in the statutes dealing with physical

disabilities that allows this kind of situation. Granting of this petition will not impact the neighbors, traffic, etc and is short term and temporary. Mr. Saari went through the five criteria and stated he felt they had been met.

Questions from the Board

Chairman McGuirk asked how large the lot was. Attorney Saari said it was 9 acres. Mr. O'Brien asked what would come out of the kitchen. Ms. Brooks said the stove would come out. Mr. Schultz said the cleanest solution would be to have the kitchen removed in its entirety. Then it would not be a separate dwelling unit.

Comments from the Audience

Bob Knight, Exeter Road, came forward. Mr. Knight said he is a neighbor and he has no objections and feels this is the right thing to do for Mr. Parker's mother.

Back to the Board

Moved by Mr. Vic Lessard, seconded by Mr. Provencal, to grant Petition 08-08 with the stipulation that once Mr. Parker's mother leaves the entire area will be converted back to a garage (non-living space) within six months.

Chairman McGuirk asked the Board if the five criteria had been met. The members agreed that they had subject to the conditions set forth.

VOTE: 5-0-0. Motion passed.

10-08 The petition of Elmwood Corners LLC for property located at 2252 Winnacunnet Road seeking relief from Articles 1.3, 4.2, 4.3, 6.3.9 (lot 1) and 4.14.1.1.4.2 Footnote 22 and 4.2 (lot 2) to allow the subdivision of Map 205 Lot 17 to create a 15,500 square foot lot on which the existing lodging house shall continue to operate, and a single family residential lot of 13,250 square feet. This property is located at Map 205, Lot 17 in a RA zone.

Walter Davis and Attorney Stephen Ells of Holmes & Ells came forward. Attorney Ells said that before Mr. Davis owned the property the previous owners obtained permission to have a B&B. The property is no longer operated as such. Mr. Davis has title to the undeveloped portion of Leavitt Road. The lodging house has been in place for some time and its intensity of use, access and parking will not change if these variances are granted. Attorney Ells went through the five criteria and stated he felt they had been met.

Questions from the Board

Mr. O'Brien said he was not in favor of the 20 foot frontage on Winnacunnet Road for the new lot where 125 feet are required and that the proposed driveway would be at a dangerous intersection; he then asked why a driveway couldn't be run from the new lot over to Leavitt Road. Attorney Ells said this was because of lack of support of the abutters. Also the Town is not interested in any extension of that strip of land. There is pending litigation with the Town. The Town is taking the position that they have the right to control this strip of land.

Mr. Vic Lessard said he did not like the location of the driveway. Attorney Ells said that this was decided at a settlement agreement reached in mediation.

Comments from the Audience

Brian Leno, 96 Leavitt Road, came forward. He stated he was an abutter. Mr. Leno said he would prefer a Winnacunnet Road entrance. Intensity of use of the problem is of concern. Mr. Leno said this petition for a pork chop lot is not in conformance with the Hampton zoning ordinance.

Back to the Board

Moved by Mr. O'Brien, seconded by Mr. Vic Lessard, to deny Petition 10-08.

Chairman McGuirk asked the Board if the five criteria had been met. Mr. O'Brien said no. Mr. Vic Lessard said yes with the exception of the driveway entrance. All other members said yes.

VOTE: 4-1(McGuirk)-0. Motion passed.

11-08 The petition of Terrence Griffin for property located at 173 Kings Highway seeking relief from Article 1.3 and 4.5.3 to raise the house to add another living level underneath. This property is located at Map 168, Lot 44 in a RA zone.

Colleen Griffin Hancock and Rick Griffin came forward.

Ms. Hancock said they need relief of the rear set back so they can raise the house and put another living level underneath. They would not be changing the existing footprint of the building and would be increasing property values in the area. Ms. Hancock went through the five criteria and stated that she felt they had been met.

Questions from the Board

Mr. O'Brien said he was concerned about the floor plan diagram and asked if this would remain a single family. Ms. Hancock replied it would. Mr. O'Brien said at least one other variance (4.5.1) and possibly a second (4.5.2) would be needed because the plot plan was incorrect.

Mr. Vic Lessard said the applicant should get a certified plot plan of the lot and return to the Board next month.

Moved by Mr. Vic Lessard, seconded by Mr. Provencal, that the applicant for Petition 11-08 be allowed to withdraw without prejudice.

VOTE: 5-0-0. Motion passed.

BUSINESS SESSION

Mr. Schultz discussed a property at 20 Kings Highway. Variances were granted on this property in 1997 which included a roof over the porch. When the house was built they didn't roof the porch. Now the owner wants to do that. Mr. Schultz asked the other Board members if they felt the owner should come back to the Board. The general consensus of the Board is that the owner should return to the Board.

Adoption of Minutes – January 17, 2008

Moved by Mr. O'Brien, seconded by Mr. Jack Lessard, to approve the Minutes of January 17, 2008 as amended.

VOTE: 5-0-0. Motion passed.

There being no further business, Mr. Jack Lessard **moved**, seconded by Mr. Vic Lessard, that the meeting be adjourned.

The meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Joan Rice
Secretary